

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of COLETTE McDANIEL and DEPARTMENT OF VETERANS AFFAIRS,
RECORDS MANAGEMENT CENTER, St. Louis, MO

*Docket No. 00-1381; Submitted on the Record;
Issued March 13, 2001*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation and medical benefits effective March 25, 2000.

On April 16, 1999 appellant, then a 34-year-old file clerk, filed a traumatic injury claim, alleging that she bent down to pick up a folder off the floor and a module closed on her, injuring the left side of her body and left shoulder. Appellant stopped work and the employing establishment authorized continuation of pay. On September 24, 1999 appellant's claim was accepted for contusions of the left shoulder, back, hip and chest. Appellant received appropriate compensation.

On the day of the injury, appellant received treatment from Christian Hospital NW. Appellant was subsequently seen by Dr. Paul Lee, a chiropractor, who found that appellant was totally incapacitated from April 19 to June 1, 1999. Appellant returned to limited duty, full-time employment on June 2, 1999.

Although Dr. Lee indicated that appellant could return to full-duty work on June 15, 1999, he completed numerous duty status reports between June 18 and September 10, 1999, which noted limited-duty restrictions. In the September 10, 1999 duty status report, he estimated that appellant would be able to return to full duty on October 8, 1999.

On August 5, 1999 appellant was seen by Dr. Zari Ibrahim, an orthopedist, who stated that she could return to light duty beginning August 6, 1999 and full duty beginning August 23, 1999. Dr. Ibrahim noted that appellant had a diffuse soft tissue injury. On August 10, 1999 appellant requested a change of physicians to Dr. Michael Spezia, and this change was approved. However, no medical reports from Dr. Spezia were ever submitted.

Appellant stopped working for the employing establishment on October 14, 1999, and again received total disability benefits.

On November 17, 1999 the Office referred appellant to Dr. Donald Brancato, a Board-certified orthopedic surgeon, for a second opinion evaluation. In a report dated December 9, 1999, Dr. Brancato concluded that appellant had absolutely no physical evidence of residuals due to the injury of April 16, 1999. He noted that she had excellent range of motion of the shoulder, hip and knee. He continued:

“At this stage I feel that she sustained only muscle contusion; however, there is no evidence of muscle hardness, ecchymotic tattooing or any residual from the contusion. Her complaints therefore are probably from inter-muscular scarring. However, these are all of subjective complaints and should not be limit[ed] in any way.

“I find absolutely no evidence of any disability or any permanent impairment. I feel that she can have a full-work activity, without limitation at the present time.”

On January 21, 2000, based on the report of Dr. Brancato, the Office issued a notice of proposed termination of benefits. The Office noted that the weight of medical evidence established that appellant had recovered from the residuals of her April 16, 1999 work injuries. Appellant did not submit any further evidence. On February 23, 2000 the Office terminated appellant’s compensation effective March 25, 2000.

The Board finds that the Office has met its burden of proof to terminate appellant’s benefits.

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.¹ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.² Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which requires further medical treatment.³

In this case, Dr. Brancato found that appellant had absolutely no physical evidence of the prior injury and had excellent range of motion in her shoulder, hip and knee. He found no evidence of any disability or permanent impairment. There is no evidence to the contrary in the record.

In his August 5, 1999 opinion, Dr. Ibrahim stated that appellant could return to light-duty work beginning August 23, 1999. Dr. Lee estimated that appellant could return to full duty on October 8, 1999. Although appellant was granted permission to see Dr. Spezia, there are no medical reports in the record from him. As there is no evidence in the record to contradict

¹ *Arthur Sims*, 46 ECAB 880 (1995).

² *Betty M. Regan*, 49 ECAB 496, 501 (1998).

³ *Id.*, *Furman G. Peake*, 41 ECAB 361, 364 (1990).

Dr. Brancato's opinion that appellant has recovered from her injury of April 16, 1999, the Board finds that the Office has met its burden of proof in terminating appellant's benefits, effective March 25, 2000.

The decision of the Office of Workers' Compensation Programs dated February 23, 2000 is affirmed.

Dated, Washington, DC
March 13, 2001

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member